



PROPOSED RULE MAKING  
(RCW 34.05.320)

CR-102 (7/22/01)  
Do NOT use for expedited  
rule making

Agency: Public Employment Relations  
Commission

X Original Notice

- X Preproposal Statement of Inquiry was filed as WSR 03-03-066 ; or  
☐ Expedited Rule Making -- Proposed notice was filed as WSR \_\_\_\_\_; or  
☐ Proposal is exempt under RCW 34.05.310(4).

- ☐ Supplemental Notice  
to WSR \_\_\_\_\_  
☐ Continuance of WSR \_\_\_\_\_

(a) Title of rule: (Describe Subject) Amendments to chapters 391-08 and -25 WAC

Purpose: To reflect current practice concerning publication of agency decisions, to repeal option for institutions of higher education and exclusive bargaining representatives under RCW 41.56.201 effective July 1, 2003, to provide procedure to consolidate representation petitions involving same employees, and to allow an employee organization representing two or more bargaining units of state civil service employees to obtain merger of units.

Other identifying information:

(b) Statutory authority for adoption: RCW 28B.52.080, 41.06.340, 41.56.090, 41.58.050, 41.59.110, and 41.76.060

Statute being implemented: See Attachment A

(c) Summary: Rule changes are proposed regarding 1) Publication of agency decisions on website; 2) Repeal of WAC 391-25-011 implementing option to bring bargaining units of classified employees of institutions of higher education under chapter 41.56 RCW; 3) Consolidation of pending petitions under chapter 391-25 WAC involving any or all of same employees; 4) Repeal WAC 391-25-216 modifying intervenor rule for petitions involving state civil service employees; and 5) Adopt as a permanent rule WAC 391-25-426, providing for merger of two or more state civil service employee bargaining units represented by same employee organization, if commission finds merged unit to be appropriate.

Reasons supporting proposal: To implement new agency procedure for publication of decisions, and to comply with chapter 41.80 RCW (Personnel System Reform Act - PSRA).

(d) Name of Agency Personnel Responsible for:

1. Drafting.....Mark S. Downing

Office Location

711 Capitol Way, Suite 603, Olympia, Washington

Telephone

(360) 570-7305

2. Implementation.... same

3. Enforcement..... same

(e) Name of proponent (person or organization): Agency

- ☐ Private  
☐ Public

X Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:  
Agency supports proposed rule changes.

(g) Is rule necessary because of:

Federal Law?

☐ Yes

X No

Federal Court Decision?

☐ Yes

X No

State Court Decision?

☐ Yes

X No

If yes, ATTACH COPY OF TEXT  
Citation:

(h) HEARING LOCATION:

Second Floor Conference Room  
Evergreen Plaza Building  
711 Capitol Way  
Olympia, Washington

Date: May 13, 2003 Time: 10:00 a.m.

Assistance for persons with disabilities: Contact  
James E. Lohr by May 6, 2003

TDD ( ) or (360) 570-7310

NAME (TYPE OR PRINT)

Marvin L. Schurke

SIGNATURE

TITLE

Executive Director

DATE

March 19, 2003

Submit written comments to:

Mark S. Downing, Rules Coordinator  
Public Employment Relations Commission  
P.O. Box 40919  
Olympia, WA 98504-0919  
By May 6, 2003  
FAX: (360) 570-7334 info@perc.wa.gov

DATE OF INTENDED ADOPTION: May 13, 2003

CODE REVISER USE ONLY

9:23  
03-07-093

(j) Short explanation of rule, its purpose, and anticipated effects:

Clientele can use agency website to research all decisions issued since agency was created in 1976. Notice is provided that option under RCW 41.56.201 is repealed effective July 1, 2003. Consolidation of representation petitions is provided, so commission can fulfill statutory requirement to determine appropriate bargaining unit(s).

Does proposal change existing rules? ☒ YES ☐ NO

If yes, describe changes:

WAC 391-08-670 is amended to delete reference to agency use of commercially published index of its decisions. WAC 391-25-011 is repealed effective July 1, 2003. WAC 391-25-210 is amended to provide that 1) intervenor with ten percent showing of interest shall not be permitted to seek bargaining unit configuration different than unit proposed by original petitioner; and 2) petitions filed by two or more organizations involving any or all of same employees shall be consolidated, if filed before issuance of a notice of election in another proceeding or before commencement of a cross-check in another proceeding, and the proceedings shall be consolidated for resolution of the description of bargaining unit(s).

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.  
A copy of the statement may be obtained by writing to:

telephoning: (     )

faxing: (     )

☒ No. Explain why no statement was prepared

Agency rules only obligate public employees and unions representing public employees, and do not impose costs on profit-making businesses.

(l) Does RCW 34.05.328 apply to this rule adoption? ☐ Yes ☒ No  
Please explain:

Agency rules are excepted by RCW 34.05.328(5)(a)(i) from the provisions of RCW 34.05.328.

**ATTACHMENT A**

Additional statutory authority for the implementation of these rule changes are listed as follows:

Chapter 391-08 WAC

-670

RCW 34.05.220

Chapter 391-25 WAC

-210

RCW 41.56.070, 41.59.070,  
41.80.080

-426

RCW 41.80.070(3)

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

**WAC 391-08-670 Decision numbering--Citation of cases--Indexing of decisions.** (1) Each decision issued by the agency in an adjudicative proceeding under the Administrative Procedure Act is assigned a unique number consisting of two or three components, as follows:

(a) The first component, consisting of a number, indicates the sequential number of adjudicative proceedings in which one or more decisions has been issued since the agency commenced operations on January 1, 1976.

(b) The second component (where appropriate) consisting of an alphabetic code in ascending alphabetical order, indicates the second and subsequent decisions issued in the case to which the numerical component was originally assigned.

(c) The third component, consisting of a four-letter alphabetic code, indicates the statute under which the decision was issued:

"CCOL" indicates cases decided under chapter 28B.52 RCW (Collective Bargaining--Academic Personnel in Community Colleges).

"EDUC" indicates cases decided under chapter 41.59 RCW (Educational Employment Relations Act).

"FCBA" indicates cases decided under chapter 41.76 RCW (faculty at public four-year institutions of higher education).

"MRNE" (no longer in use) was formerly used to indicate cases decided under chapter 47.64 RCW, relating to the Washington state ferries system.

"PECB" indicates cases decided under chapter 41.56 RCW (Public Employees' Collective Bargaining Act), including some cases involving port districts.

"PORT" indicates cases decided exclusively under chapter 53.18 RCW (Employment Relations--Collective Bargaining and Arbitration), relating to port districts.

"PRIV" indicates cases decided under chapter 49.08 RCW, relating to private sector employers and employees.

"PSRA" indicates cases decided under RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act).

(2) All citations of agency decisions in subsequent agency decisions, in publications of agency decisions, and in briefs and written arguments filed by parties with the agency shall conform to the formats specified in this section:

GENERAL RULE: Citations shall list only the name of the employer *italicized*, the word "Decision" followed by the decision number, and the statute and year the decision was issued (in parenthesis).

Examples: City of Roe, Decision 1234 (PECB, 1992)

City of Roe, Decision 1234-A (PECB, 1993)

City of Roe, Decision 1234-B (PECB, 1994)

EXCEPTION ((+ ~~For decisions being cited within the first year following their issuance, the full date of issuance may be set forth.~~

Example: ~~City of Roe, Decision 1234-C (PECB, December 15, 1995)~~

EXCEPTION 2)) For decisions in which an employee organization or labor organization was named as the respondent in an unfair labor practice case, the citation shall list the name of the union (in parenthesis) following the name of the employer.

Example: City of Roe (Doe Union), Decision 2345 (PECB, 1995)

(3) The agency encourages the publication and indexing of its decisions by private firms, but does not contribute financial support to any such firm and declines to declare any private firm as the "official reporter" of agency decisions.

(4) ~~((The agency uses a commercially published index of its decisions, along with commercially produced computer assisted research tools, in its own operations. The agency makes those indexes available to the public in its offices,))~~ To satisfy the requirements of RCW 42.17.260(5), the agency publishes its decisions, together with a search engine, on its website at: "www.perc.wa.gov".

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

**WAC 391-25-210 Bargaining unit configurations(~~---Positions limited by showing of interest~~)).** (1) In proceedings on a petition for "decertification" under WAC 391-25-070 (6)(c) or 391-25-090(2), the parties shall not be permitted to remove positions from or add positions to the existing bargaining unit;

(2) An organization which files a motion for intervention under WAC 391-25-190 shall (~~only~~) not be permitted to seek a bargaining unit configuration different than proposed by the original petitioner (~~if the intervenor furnishes a showing of interest demonstrating that it has the support of thirty percent or more of the employees in the bargaining unit which the intervenor claims to be appropriate~~)).

(3) If petitions filed by two or more organizations under this chapter are pending before the agency at the same time and involve any or all of the same employees, the timeliness of the respective petitions and the sufficiency of the respective showings of interest shall be determined separately and the proceedings shall be consolidated for resolution of all issues concerning the description(s) of the bargaining unit(s). A petition filed after the issuance of a notice of election in another proceeding under WAC 391-25-430 or after the commencement of a cross-check in another proceeding under WAC 391-25-410 shall be dismissed as untimely.

(4) A party to proceedings under this chapter shall not be permitted to propose more than one bargaining unit configuration for the same employee or employees, except where a merger of bargaining units is proposed under WAC 391-25-420.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-25-011

Special provision--Optional coverage of classified employees of institutions of higher education under chapter 41.56 RCW.

WAC 391-25-216

Special provision--State civil service employees.

NEW SECTION

**WAC 391-25-426 Special provision--State civil service employees.** An employee organization that represents two or more bargaining units of state civil service employees may obtain a merger of those units by filing a petition under WAC 391-25-420 (2)(a). If the merged unit is found to be appropriate under WAC 391-25-420 (2)(c)(i) and (ii), the employee organization shall be certified as exclusive bargaining representative without need for unit determination elections.